THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

W.P.No.2920 of 2007

Date:25.06.2007

Between:

T.Tirupathamma.

.. PETITIONER

AND

The Branch Manager and others.

..RESPONDENTS

ORDER:

The petitioner obtained a sum of Rs.2,00,000/- as loan from the first respondent-Bank in the year 2001. As a security for repayment of the loan, she had mortgaged her residential house. She committed default in repayment of the loan. Therefore, the first respondent initiated proceedings before the Deputy Registrar of Cooperative Societies, Bhimavaram under Section 71 of the Andhra Pradesh Cooperative Societies Act, 1964 (for short 'the Act) for issuance of a certificate of recovery. A certificate was issued and thereafter, execution proceedings were initiated. The mortgaged property was brought to sale on 04.01.2007. The petitioner challenges the same. She contends that she was not served with notice, either at the stage of issuance of recovery certificate or at the stage of its execution.

On behalf of respondents 1 and 3, a counter-affidavit is filed denying the allegations of the petitioner. It is stated that the notice in the proceedings initiated under Section 71 of the Act was served on the petitioner on 10.09.2005 and at the stage of execution, the

notice was served on 18.10.2005. It is alleged that in spite of receiving notice, the petitioner did not respond.

The successful bidder in the sale proceedings, the fourth respondent, also filed a counter-affidavit opposing the claim of the petitioner.

Heard Sri K.Jyothi Prasad, the learned counsel for the petitioner, Sri Y.V.Ravi Prasad, the learned standing counsel for respondents 1 and 3 and Smt.Bobba Vijaya Lakshmi, the learned counsel for the fourth respondent.

The petitioner does not dispute that she obtained loan from the Bank and did not repay the same as per the schedule. Therefore, the Bank instituted proceedings under Section 71 of the Act before the Deputy Registrar concerned. Though the petitioner denies service of notice in the said proceedings, on behalf of the Bank, it is categorically pleaded that the notice in the said proceedings was served on the petitioner on 10.09.2005. Similarly, the plea of the petitioner that she was not served with notice in the execution proceedings, is controverted by the Bank and it is asserted that the notice was issued on 10.10.2005 and the same was served on 18.10.2005 on the petitioner. No reply-affidavit is filed by the petitioner contradicting these specific assertions.

Once there exist a mortgage in favour of the Bank and proceedings were initiated in accordance with the relevant provisions of law, this Court cannot interfere with the same. No material irregularity in the proceedings is pointed out. Further, this Court gave an opportunity to the petitioner to wriggle out of the situation, but, she did not avail the same.

While issuing notice before admission on 20.02.2007, this Court granted stay of confirmation of sale, in case the petitioner deposits the amount mentioned in the sale notice. The amount was not paid within the stipulated time. The result was that the sale was also confirmed. At this stage, no relief can be granted to the petitioner.

The writ petition is accordingly dismissed. There shall be no order as to costs.

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25.06.2007

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